

**ASSEMBLY BILL**

**No. 1406**

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**Introduced by Assembly Member Karnette**

February 22, 2005

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An act to add Section 1750 to the Harbors and Navigation Code, relating to ports and harbors.

LEGISLATIVE COUNSEL'S DIGEST

AB 1406, as introduced, Karnette. Ports and harbors: freight security fee.

Existing law requires the Governor to appoint, to serve at his or her pleasure, an executive officer as the Director of Homeland Security. Existing law requires the director to be in charge of homeland security and to be the state coordinator of all homeland security activities, including homeland security strategy, information analysis related to terrorism, and protection of critical infrastructure from terrorism.

This bill, on and after January 1, 2007, would impose a fee of \$10 per intermodal freight container on every freight container processed through a port or harbor in the state. The bill would require the fee to be paid to the marine terminal operator processing the container by the person contracting for shipment of the container.

The bill would require each marine terminal operator in the state that processes freight containers to transmit the fees and certain related information to the Office of Homeland Security (OHS) on or before the 10th business day of each month.

The bill would require OHS to deposit all revenue derived from imposition of the fee in the Port Security and Safety Fund, which the bill would establish in the State Treasury.

The bill would require the money in the fund, upon appropriation, to be expended by OHS exclusively for the purpose of preventing and

defending against homeland security risks relating to freight activity at state ports and harbors, including funding certain grants approved by OHS.

The bill would prohibit OHS from expending more than 5% of the revenue derived from imposition of the fee to cover its administrative costs incurred as a result of implementing these provisions, including repaying loans from the General Fund made as specified below.

The bill would authorize OHS to receive a loan from the General Fund to implement these provisions pending receipt of revenue generated from imposition of the fee. The bill would require any loan received by OHS from the General Fund, as specified, to be repaid not more than one year after receipt of the loan, with the funds specified above.

The bill would require OHS, on or before January 1, 2007, to establish a grant program to fund proposals from public or private entities to improve freight security at the state's ports and harbors.

The bill would require OHS to allocate funds under these provisions on a quarterly basis. The bill would require that all funds received by OHS under these provisions be allocated not more than one year after receipt.

The bill would set forth a statement of legislative intent to authorize OHS to issue revenue bonds funded with revenue derived from imposition of the fee to generate additional revenue for the purposes of these provisions.

The bill would authorize OHS to prohibit a person who has failed to comply with these requirements from future use of state ports and harbors.

The bill would require OHS, on or before June 1, 2006, to provide a report to the Governor and the Legislature regarding administrative actions that would facilitate implementation of these provisions.

The bill would require OHS, on or before January 1, 2008, to report to the Governor and the Legislature regarding the appropriate amount for a fee on noncontainerized cargo to fund security improvements at state ports and harbors.

The bill would authorize OHS to collaborate with other governmental entities to implement these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1750 is added to the Harbors and  
2 Navigation Code, to read:

3 1750. (a) On and after January 1, 2007, a fee of ten dollars  
4 (\$10) per freight container is hereby imposed on every  
5 intermodal freight container processed through a port or harbor in  
6 the state. The fee shall be paid to the marine terminal operator  
7 processing the container by the person contracting for shipment  
8 of the container.

9 (b) Each marine terminal operator in the state that processes  
10 freight containers shall transmit all of the following to the State  
11 Office of Homeland Security (OHS) on or before the 10th  
12 business day of each month:

13 (1) All fees collected under subdivision (a) during the previous  
14 month.

15 (2) A list of all freight containers processed by the marine  
16 terminal operator during the previous month.

17 (3) Proof satisfactory to OHS that the fee was imposed on  
18 each container listed under paragraph (2).

19 (c) (1) OHS shall deposit all revenue derived from imposition  
20 of the fee in the Port Security and Safety Fund, which is hereby  
21 established in the State Treasury.

22 (2) Upon appropriation, the money in the fund shall be  
23 expended by OHS exclusively for the purpose of preventing and  
24 defending against homeland security risks relating to freight  
25 activity at state ports and harbors, including, but not limited to,  
26 funding grants approved under subdivision (e), except as  
27 authorized under paragraph (3).

28 (3) OHS may expend not more than 5 percent of the revenue  
29 derived from imposition of the fee to cover its administrative  
30 costs incurred as a result of implementing this section, including  
31 but not limited to, repaying any loans from the General Fund  
32 made under subdivision (d).

33 (d) OHS may receive a loan from the General Fund to  
34 implement this section pending receipt of revenue generated  
35 from imposition of the fee. Any loan received under this  
36 subdivision shall be repaid not more than one year after receipt of  
37 the loan, with the funds described in paragraph (3) of subdivision  
38 (c).

1 (e) On or before January 1, 2007, OHS shall establish a grant  
2 program to fund proposals from public or private entities to  
3 improve freight security at the state's ports and harbors.

4 (f) (1) OHS shall allocate funds under this section on a  
5 quarterly basis.

6 (2) All funds received by OHS under this section shall be  
7 allocated not more than one year after receipt.

8 (g) It is the intent of the Legislature to authorize OHS to issue  
9 revenue bonds funded with revenue derived from imposition of  
10 the fee to generate additional revenue for the purposes of this  
11 section.

12 (h) OHS may prohibit a person who has failed to comply with  
13 the requirements of this section from future use of state ports and  
14 harbors.

15 (i) (1) On or before June 1, 2006, OHS shall provide a report  
16 to the Governor and the Legislature regarding administrative  
17 actions that would facilitate implementation of this section.

18 (2) On or before January 1, 2008, OHS shall report to the  
19 Governor and the Legislature regarding the appropriate amount  
20 for a fee on noncontainerized cargo to fund security  
21 improvements at state ports and harbors.

22 (j) OHS may collaborate with other governmental entities to  
23 implement this section.